

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #01	CCRB Case #: 202200238	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/02/2022 12:08 AM	Location of Incident: § 87(2)(b) § 87(2)(b)	18 Mo. SOL 7/2/2023	Precinct: 75
Date/Time CV Reported Sun, 01/02/2022 1:45 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/12/2022 11:42 AM

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Matthew Fried	01790	934884	ESS 06

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Andrew Hartmann	18195	940239	075 PCT
2. PO Michael Tavorario	29172	931306	075 PCT
3. PO Anthony Sarrica	31527	927729	075 PCT
4. SGT Kevin Tresham	02252	935868	075 PCT
5. PO Casey McClarnon	18487	961930	075 PCT
6. PO Benjamin Gudesblatt	08628	965736	075 PCT
7. PO Christy Tarlecki	26255	970884	075 PCT
8. PO Danny Cama	08924	939964	075 PCT
9. PO Hasan Sahin	20197	968112	075 PCT
10. PO Michael Citroen	11506	969016	075 PCT
11. PO Ahmed Dar	16236	966529	075 PCT
12. DTS Evan Nielsen	04266	933096	ESS 07
13. DTS Matthew Cahill	04139	929812	ESS 07
14. DTS Robert Schierenbeck	07814	923130	ESS 07
15. SGT Mark Sinatra	04720	944174	ESS 07

Officer(s)	Allegation	Investigator Recommendation
A . SGT Matthew Fried	Discourtesy: Sergeant Matthew Fried spoke discourteously to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
B . SGT Matthew Fried	Force: Sergeant Matthew Fried used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
C . SGT Matthew Fried	Force: Sergeant Matthew Fried used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(g), § 87(4-b)

### Case Summary

On January 2, 2022, § 87(2)(b) called the IAB Command Center, and filed this complaint on behalf of himself.

On January 2, 2022, at approximately 12:20 a.m., Sergeant Matthew Fried of the Emergency Services Unit (ESU) spoke discourteously to § 87(2)(b) (**Allegation A: Discourtesy,**

§ 87(2)(g) and used force against § 87(2)(b) (**Allegations B and C: Force,** § 87(2)(g)

§ 87(2)(g), § 87(4-b)

No summonses or arrests resulted from this incident.

Thirty-six (36) police body worn camera (BWC) footages were received for this case (Board Review 09 – Board Review 44).

### Findings and Recommendations

**Allegation (A) Discourtesy: Sergeant Matthew Fried spoke discourteously to § 87(2)(b)**

§ 87(2)(b)

**Allegation (B) Force: Sergeant Matthew Fried used physical force against § 87(2)(b)**

**Allegation (C) Force: Sergeant Matthew Fried used physical force against § 87(2)(b)**

The following facts are not disputed. On January 1, 2022, at approximately 10 p.m., officers from the 75<sup>th</sup> Precinct responded to § 87(2)(b) in Brooklyn (a three-floor brick multifamily building), in regard to multiple 911 calls from § 87(2)(b) that his father, § 87(2)(b) had locked him out of their shared apartment on the first floor (Board Review 01 – Board Review 08). § 87(2)(b) spoke to the officers through a window on the exterior door of the building, said his son did not reside at the address, and refused to open the building's front door for the officers. At some point, § 87(2)(b) and the officers all left the location (Board Review 09- Board Review 22). At approximately 12:00 a.m., on January 2, 2022, an individual, who identified himself to 911 as § 87(2)(b) and a friend of § 87(2)(b) called 911, and reported that § 87(2)(b) had shot § 87(2)(b) and that § 87(2)(b) was bleeding and dying inside § 87(2)(b) apartment. Personnel from the Emergency Medical Services (EMS) and multiple officers from the 75<sup>th</sup> Precinct and ESU thus responded to the location. § 87(2)(b) refused to open the front door of the building for the officers (Board Review 45 – Board Review 47).

§ 87(2)(b) (Board Review 48) provided very little information about this incident. He said he was asleep inside his apartment on the first floor, when he heard loud knocks on his window. He thus exited his apartment, approached and opened the window on the front door of the building, and saw multiple officers on the stoop and sidewalk. The officers ordered § 87(2)(b) to open the door and allow them inside because they received a call about someone being shot in the first floor apartment. § 87(2)(b) told the officers that he was the occupant of the first-floor apartment, that no one was shot or injured inside the apartment, and that the 911 call was made by his son, who was upset that § 87(2)(b) refused to allow him to return to the apartment. § 87(2)(b) closed the window and returned to his apartment. The officers, however, continued to knock on the front door, and on § 87(2)(b) window. At some point, § 87(2)(b) returned and opened the building's front door so that the officers could see that there was no one injured on the first floor. One of the officers, identified via investigation as Sgt. Fried, allegedly tried to push his way into the building as soon as § 87(2)(b) opened the door, but § 87(2)(b) immediately closed the door, and spoke to the officers through the

window. Sgt. Fried then called § 87(2)(b) a “crack head.” At some point, all the officers left. § 87(2)(b) did not make any allegations about an officer using force against him.

Sgt. Kevin Tresham’s BWC (Board Review 23) begins with Sgt. Tresham, assigned to the 75<sup>th</sup> Precinct, EMS, and about 10 to 12 uniformed officers from the 75<sup>th</sup> Precinct and ESU arriving on scene, climbing a set of stairs that lead to stoop, and knocking on the front door of a three-story apartment building. A sign on the front door reads “Beware of Dog.” At 01:47, the officers ask a woman, who is not depicted, but appears to be speaking to the officers from a window on the third floor if she could come downstairs and open the front door for the officers. At 02:22, § 87(2)(b) speaks to the officers through the building’s front door and refuses to open the door. The officers remain on the stoop and continue knocking on the door, and the first-floor window. At 04:53, PO Danny Cama of the 75<sup>th</sup> Precinct informs Sgt. Tresham that the occupant on the third floor is unable to come downstairs because § 87(2)(b) is preventing the occupant from accessing the front door, but the occupant is willing to give the officers their keys to the building. At 08:12, Sgt. Tresham informs an EMS supervisor and Detectives Evan Nielson and Matthew Cahill from ESU that the 911 call about the shots fired appeared to have been made from the confines of the 67<sup>th</sup> Precinct, that the 911 caller has been unresponsive to additional calls, that none of the Shot Spotter devices at the location appeared to have recorded any gun shots, and § 87(2)(b) who lives on the first floor, is refusing to cooperate with the officers. Sgt. Tresham informs the ESU officers that the officers have keys to the building but have not made any effort to enter because § 87(2)(b) appears to have dogs on the first floor. At 08:50, Det. Neilson makes a call on his cellphone and walks towards the ESU vehicle. Between 10:30 and 32:27, the officers remain on the sidewalk and speak with § 87(2)(b) who occasionally steps outside the building, speaks with the officers, and returns inside. At 30:23, the officers open the front door to the building, but remain outside. The front door leads to a small vestibule. On the left side of the vestibule is a four door, wall mount mailbox, and beyond the vestibule is a set of steps that appear to lead to the second floor. The door to the first-floor apartment is approximately six feet away from the front door and to the left of the stairs. At 33:16, Sgt. Fried arrives on scene and consults with Sgt. Tresham and the EMS supervisor. Sgt. Tresham informs Sgt. Fried that there is no evidence of shots fired or anyone injured in the building, and the two officers conclude that there is no emergency at hand to warrant an entry into the first-floor apartment. At 36:30, § 87(2)(b) appears to close the front door. At 38:49, the officers discuss how to return the building keys to the third floor occupant. One of the officers, looking up, appears to tell the third floor occupant to come down to the first floor. At 41:30, one of the officers hands the key to Sgt. Fried, who together with Sgt. Tresham approach the front door. Sgt. Fried inserts the key into the lock and opens the front door. § 87(2)(b) immediately pushes and shuts the door. Sgt. Fried tells § 87(2)(b) that he is going upstairs to the third floor. § 87(2)(b) tells Sgt. Fried that the officers have no business on the third floor. At 42:13, Sgt. Fried pushes and opens the front door, and steps into a small vestibule. § 87(2)(b) and a woman, identified as the third-floor occupant, are in the vestibule. § 87(2)(b) tries to push and close the front door, but Sgt. Fried holds the door with his right hand and right leg. At 42:17, Sgt. Fried gives the woman a set of keys, and says to her “here you go, that’s yours.” § 87(2)(b) begins to yell and asks Sgt. Fried, “What the fuck are you going to do?” Sgt. Fried replies, “I want to wish you a Merry Christmas and a Happy New Year.” § 87(2)(b) then says to Sgt. Fried, “Suck my dick. Pussy.” Sgt. Fried responds, “no thank you.” At 42:35, Sgt. Fried says to § 87(2)(b) “Have a nice night, crack head.” § 87(2)(b) begins to empty out his pocket and throw items on the ground, while saying to Sgt. Fried, “Look at this crack head motherfucker.” Sgt. Fried tries to close the door and exit the building, but § 87(2)(b) places his hand on the door. At 42:49, Sgt. Fried pushes § 87(2)(b) on his shoulder and thus causes § 87(2)(b) to take at least a step back. Sgt. Fried then steps back onto the stoop and closes the front door. § 87(2)(b) opens the front door, continues to empty out his pocket to show Sgt. Fried what

appears to be money, and repeatedly says to Sgt. Fried, “Look at this crack head, you pussy.” At 42:59, § 87(2)(b) approaches the doorway, moves his head and upper body towards Sgt. Fried, and yells into Sgt. Fried’s face, “I have over \$300 in my pocket.” Sgt. Fried pushes § 87(2)(b) on his chest causing § 87(2)(b) to take another step further away from the front door. § 87(2)(b) remains in the vestibule and continues to yell at Sgt. Fried. Sgt. Fried then asks some of the officers on the stoop to descend so the officers could leave. At 43:25, Sgt. Fried, who is not depicted, says, “Bye bye crack head.” The footage ends at 43:26. (PO Benjamin Gudesblatt’s BWC [Board Review 25] at 48:00, also captures Sgt. Fried calling § 87(2)(b) a “crackhead.”)

Sgt. Fried’s testimony (Board Review 49) was consistent with the BWC, but with the following exceptions. He said Det. Neilson requested that he respond to the location via cellphone, and that after he arrived and was presented with all the available information determined that there was no emergency at hand nor was there any enforcement action the officers could perform. Sgt. Fried, thus volunteered to return the building’s keys to the third floor occupant, who appeared to have some difficulty coming to the first floor because of § 87(2)(b) irate and aggressive demeanor. Sgt. Fried had no other reasons for entering the vestibule of the building other than to return the keys to the third floor occupant, and said the vestibule was a common area within the building, and separate from § 87(2)(b) apartment. Sgt. Fried acknowledged pushing § 87(2)(b) on his shoulder and chest and said he did so to create a safe and reasonable distance between himself and § 87(2)(b) because § 87(2)(b) stood very close to Sgt. Fried, was yelling into Sgt. Fried’s face, and prevented Sgt. Fried from closing the building’s front door. Sgt. Fried did not recall why he needed to close the building’s door and had no independent recollection of calling § 87(2)(b) a crack head but acknowledged hearing “something to that effect” on the BWC. Sgt. Fried did not know why he called § 87(2)(b) a “crack head.”

NYPD Patrol Guide Procedure 200-02, states that officers must maintain a higher standard of integrity than is generally expected of others, and that they must treat every citizen with compassion, courtesy, professionalism, and respect (Board Review 50). However, in prior disciplinary cases, the NYPD has held that the use of profane remarks during stressful situations or while an officer is trying to get a chaotic situation under control, does not constitute misconduct, DAO-DCT Disciplinary Case No. 2017-17005 (Board Review 51).

Although Sgt. Fried had no independent recollection of using any profanities towards § 87(2)(b) the BWC captured at least two instances where Sgt. Fried referred to § 87(2)(b) as a “crack head,” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

NYPD Patrol Guide Procedure 221-01, permits officers to use force when it is reasonable to ensure their safety, to gain compliance, to place a person into custody or to prevent an escape from custody. In determining whether the use of force is reasonable, officers shall consider the actions taken by the subject, and the immediacy of the perceived threat or harm to the subject, officers, and/or bystanders (Board Review 52).

The BWC established that after determining that no law enforcement action would be taken at the location, Sgt. Fried entered the vestibule of the building to return the building’s keys to the third-floor occupant, and that he pushed § 87(2)(b) on the chest when § 87(2)(b) held the door and prevented Sgt. Fried from closing it while exiting the building. The BWC further

showed that § 87(2)(b) was not in close proximity to Sgt. Fried at the time of the push, and Sgt. Fried ultimately left the building without closing the front door. § 87(2)(g)

§ 87(2)(g)

The BWC showed Sgt. Fried exiting the building, at which point § 87(2)(b) approached the doorway, moved his head and upper body towards Sgt. Fried, and yelled directly into Sgt. Fried's face. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 53).
- Sgt. Fried has been a member of service for 18 years, and has been a subject in 14 CCRB complaints, and 34 allegations, one of which was substantiated:
  - Case #201409378 involved a substantiated vehicle search allegation. The Board recommended Command Discipline B. The NYPD imposed Formalized Training.
  - § 87(2)(g)

#### **Mediation, Civil, and Criminal Histories**

- Mediation was not offered in this case.
- As of October 19, 2022, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to complaint (Board Review 55).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad: 1

Investigator: Enoch Sowah  01/04/2023  
Signature Print Title & Name Date

Squad Leader: Mgr. Joy Almeyda  10.27.22  
Signature Print Title & Name Date

Reviewer:     
Signature Print Title & Name Date